

# HOUSE . . . . . No. 647

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By Ms. Fox of Boston, petition of Gloria L. Fox relative to the  
expungement of court records of certain juveniles. The Judiciary.

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## The Commonwealth of Massachusetts

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### PETITION OF:

Gloria L. Fox	Christine E. Canavan
Ruth B. Balser	Patricia D. Jehlen
Michael E. Festa	Anne M. Paulsen
Frank I. Smizik	

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In the Year Two Thousand and Five.

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### AN ACT PERMITTING THE EXPUNGEMENT OF CERTAIN JUVENILES' RECORDS.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 Section 100B of chapter 276 of the General Laws is hereby  
2 amended by inserting before the first paragraph the following  
3 paragraph:—

4 (a) Records are expunged when they are removed and  
5 destroyed and leave no trace of the information which had for-  
6 merly been contained in them.

7 (b) Juvenile shall have their delinquency records immediately  
8 expunged by the court without the filing of a petition when their  
9 case is dismissed or withdrawn, and nolle prosequi'd, acquittal,  
10 on delinquency and/or youthful offender charges, and where other  
11 factors have exonerated the arrested youth. The court shall circu-  
12 late an order of expungement of the juvenile arrest records, all  
13 arrest and police reports, booking reports of records, fingerprint  
14 records, booking photographs, and all electronically stored  
15 records of any nature or description, to local police, school police  
16 agencies, the state police and the office of the commissioner of  
17 probation as well as state and federal agencies, officials or institu-

18 tions known to collect and have information pertaining to alleged  
19 delinquency or youthful offender charges.

20 (c) Juveniles adjudicated delinquent of a first offense for a  
21 misdemeanor or non violent offense are presumptively entitled to  
22 expungement of their records upon completion of any period of  
23 probation resulting from adjudication, when no subsequent charge  
24 had been filed against them. Juveniles adjudicated delinquent on a  
25 first offense may move for expungement while other charges are  
26 pending by filing notice of their intention to expunge the record of  
27 their first offense. Such notice must be filed 30 days prior to a  
28 hearing with the prosecutor, the clerk of the court, and the com-  
29 missioner of probation. In deciding whether to expunge, the court  
30 must consider the nature of the first offense, the pending charge,  
31 the juvenile's personal history and record of ties to school and the  
32 community, adverse consequences to the juvenile economically  
33 and within the criminal justice system, and the necessity of main-  
34 taining the record for public safety. The court shall circulate an  
35 order of expungement of the juveniles' arrest records, all arrest  
36 and police reports, booking reports of records, fingerprint records,  
37 booking photographs, and all electronically stored records of any  
38 nature or description, to local police, school police agencies, the  
39 state police and the office of the commissioner of probation as  
40 well as state and federal agencies, officials or institutions known  
41 to collect and have information pertaining to alleged delinquency  
42 or youthful offender charges.

43 (d) Juveniles whose records have been expunged may con-  
44 sider the case never to have occurred and may properly reply  
45 accordingly upon any inquiry. Persons charged with maintenance  
46 of such records shall state, "No record exists," and not disclose to  
47 any person information pertaining to the expunged records.

48 (e) Youths prosecuted as youthful offenders pursuant to  
49 section 54 of chapter 119 may petition the court for expungement  
50 of court, police and probation records containing their identity, 36  
51 months after the court order adjudicating them youthful offender  
52 and only if the youth has no pending proceeding involving a  
53 felony or misdemeanor being instituted against him and no new  
54 charge has been brought in the intervening 36 months. The  
55 youth's attorney shall apply for expungement to the court and pro-  
56 vide the prosecutor and to the victim written notice at least 30

57 days prior to a hearing. Such notice must be filed 30 days prior to  
58 a hearing with the prosecutor, the clerk of the court, and the com-  
59 missioner of probation. In deciding whether to expunge, the court  
60 must consider the nature of the first offense, the pending charge,  
61 the juvenile's personal history and record of ties to school and the  
62 community, the adverse consequences to the juvenile economi-  
63 cally and within the criminal justice system, and the necessity of  
64 maintaining the record for public safety. The court shall circulate  
65 an order of expungement of the youth's arrest complaint, referrals,  
66 petitions, reports to all persons, agencies, officials or institutions  
67 known to have information pertaining to the case.